REMARKS

In response to the final Office Action dated April 21, 2006, claims 1, 14, 20, 22, and 26 have been amended. Therefore, claims 1-7, 9, 11-15, and 18-32 remain in the case. The Applicants respectfully request that this amendment be entered under 37 C.F.R. 1.116 to place the above-referenced application in condition for allowance or, alternatively, in better condition for appeal. In light of the amendments and arguments set forth herein, reexamination and reconsideration of the application are requested.

Section 103(a) Rejections

The final Office Action rejected claims 1-7, 9, 11-15, and 18-32 under 35 U.S.C. § 103(a) as being unpatentable over Bayer et al. (U.S. Patent No. 6,311,190) in view of Oracle 8i. Oracle 8i is described in two papers: "Programming Environments for Oracle Objects", pp. 1-18 (hereinafter referred to as Reference A, and "Programmatic Environments", pp. 1-27 (hereinafter referred to as Reference B).

The Office Action stated that Bayer et al. disclose all elements of the Applicants' claimed invention except that Bayer et al. do "not teach high density voting over a computer network using an object residing on a server that maintains persistent connections between the object and a database; caching the votes received in a memory cache using the object; using the cached votes in calculating a result." However, the Office Action stated that "the concept of using objects in a memory cache to provide a buffer to enable high performance access to a database is a well-known concept, as evidenced by Oracle 8i." Therefore, the Office Action asserted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Bayer and Oracle 8i to arrive at the Applicants' claimed invention.

In response, the Applicants respectfully traverse these rejections based on the amendments to claims 1, 14, 22, and 26, and the following legal and technical analysis. It is the Applicants' position that the combination of Bayer et al. and the Oracle 8i papers (References A & B) is lacking several material features of the Applicants' claimed invention. In particular, the combination does not disclose, either explicitly or

implicitly, the following material claimed features: (a) presenting a survey question and a plurality of responses to voters viewing a live broadcast event; (b) directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event; and, (c) presenting the final voting results during the live broadcast event.

Further, the combination of Bayer et al. and the Oracle 8i papers fails to appreciate the advantages of these claimed features. Thus, the Applicants submit that the combination of Bayer et al. and the Oracle 8i papers cannot make obvious these claimed features of the Applicants' invention.

To make a prima facie showing of obviousness, all of the claimed features of an Applicant's invention must be considered, especially when they are missing from the prior art. If a claimed feature is not disclosed in the prior art and has advantages not appreciated by the prior art, then no prima facie showing of obviousness has been made. The Federal Circuit Court has held that it was an error not to distinguish claims over a combination of prior art references where a material limitation in the claimed system and its purpose was not taught therein. *In re Fine,* 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Moreover, as stated in the MPEP, if a prior art reference does not disclose, suggest or provide any motivation for at least one claimed feature of an Applicants' invention, then a prima facie case of obviousness has not been established (MPEP § 2142).

Amended Independent Claims 1, 14, 22 and 26

Amended independent claim 1 of the Applicants' claimed invention includes a method for facilitating interactive voting over the Internet during a live broadcast event. The method includes presenting a survey question and a plurality of responses to voters viewing the live broadcast event; directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event, and receiving votes at a web site server in response to the survey question. The method further includes providing a Live Event Object residing on the server that maintains persistent connections between the Live Event Object and a database, caching the votes received in a memory cache using the

Live Event Object, tabulating in memory the cached votes accumulated over a predefined time interval to generate intermediate voting results, and writing the intermediate voting results to the database at the predefined interval. The method also includes computing in real time a final voting result to the survey question by continuously tallying each of the intermediate voting results written in the database, and presenting the final voting results during the live broadcast event.

Amended independent claim 14 of the Applicants' claimed invention includes an interactive voting system using a computer network. The system includes a server in communication with the computer network for receiving voting data from voters in response to a polling question presented to the voters during a live broadcast event that directs the voters to respond to the polling question by visiting a web site, an object residing in memory on the server for caching at least some of the voting data and tabulating the cached voting data for a predefined time interval to compute an intermediate voting result, wherein the object is a non-relational object, and a database having a connection with the object that receives and writes the cached voting data at the predefined time interval. The system further includes tabulating a final voting result in real time using the intermediate voting result, and presenting the final voting result during the live broadcast event.

Amended independent claim 22 of the Applicants' claimed invention includes an interactive voting system that uses a computer network to process voting data in response to a survey question asked during a live television broadcast. The system includes a Live Event Vote Server in communication with the computer network and accessible at a web site of a sponsor of the live television broadcast, and a Live Event Object residing in memory on a Live Event Vote Server. The Live Event Object receives and caches voting data from a client in communication with the computer network. The voting data represents responses to the survey questions given by viewers of the live television broadcast after having visited the sponsor's web site. In addition, cached voting data is tabulated at a predefined time interval to generate intermediate voting results, the intermediate voting results are transferred at the predefined time interval to a Live Event

Database through persistent connections between the Live Event Object and the Live Event Database such that the intermediate voting results are used to compute final voting results in real-time, and the final voting results are presented during the live television broadcast.

Amended independent claim 26 of the Applicants' claimed invention includes in a computer network having a plurality of clients and a server, a computer-implemented method for providing interactive voting over the Internet during a live television broadcast. The method includes presenting a survey question and a number of responses to voters viewing the live television broadcast, directing voters viewing the live television broadcast to vote for one or more of the responses by using the plurality of clients to visit a web site of a sponsor of the live television broadcast, and transmitting voting data submitted by the voters using the plurality of clients over the Internet to the server located at the sponsor's web site. The method further includes providing an object resident in memory on the server that contains procedures and instructions for manipulating the voting data, tabulating in memory cached voting data to generate intermediate voting results at specified intervals, and writing the intermediate voting results to a database at the specified intervals. The method also includes establishing and maintaining a persistent connection between the object and the database to facilitate writing of the intermediate voting results, using the intermediate voting results in the database to tabulate a final voting result in real time, and presenting the final voting results within time constraints of the live television broadcast.

The high-density interactive voting system is designed for "facilitating high-density interactive voting over a network and providing voting results in real-time" (specification, page 3, lines 9-10). Survey questions are generally provided to viewers "during a live event (such as a television or radio broadcast) and responses and results are required within a short amount of time. This creates a high voting density on the network that can incapacitate an interactive voting network. The present invention uses novel features to maximize throughput over the voting network and allow high-density voting. In addition, the present invention is able to tabulate and return the voting results in real-time, thereby

enabling the results of the voting to be broadcast during the live event" (specification, page 3, lines 12-18).

In contrast, Bayer et al. merely disclose a way for voters to respond to surveys that are "conducted either in person, mail, or via telephone" (col. 1, lines 30-32). Nowhere, however, do Bayer et al. discuss any of the Applicants' claimed features of presenting a survey question during a live broadcast event, directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event, or presenting the final voting results during the live broadcast event.

The Oracle 8i papers, namely, Reference A and Reference B, add nothing to the cited combination that would render the Applicants' claimed invention obvious. Reference A and B merely discuss accessing and storing data in a database. In particular, these papers discuss caching objects for effective program interface purposes. However, the Applicants' claimed features of presenting a survey question during a live broadcast event, directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event, or presenting the final voting results during the live broadcast event are not discussed or suggested.

Consequently, no motivation or suggestion for the claimed features of the Applicants' invention is provided. Absent this teaching, motivation or suggestion, the combination of Bayer et al. and References A and B cannot render the Applicants' claimed invention obvious (MPEP § 2143.01).

The combination also fails to appreciate or recognize the advantages of the Applicants' claimed features of: (a) presenting a survey question and a plurality of responses to voters viewing a live broadcast event; (b) directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event; and, (c) presenting the final voting results during the live broadcast event. More specifically, a viewer of a live broadcast event can respond to a survey question asked during the event. "For example, a television news magazine program may be featuring a story on

the Electoral College, and one of the survey questions may be whether the Electoral College should be abolished. A viewer that is viewing the live event broadcast receives the broadcast by a television 230" (specification, page 9, lines 6-8).

"At an appropriate time during the live event broadcast, the survey questions are displayed to a viewer through a voting interface 235 (such as a television screen) and the viewer is asked to participate in the real-time poll by logging on to a web site (usually the web site of the live event sponsor). For example, during a live television new magazine program the on-air personality will instruct viewers to log onto a web site and participate in the online real-time poll on a topic that is being presented by the program" (specification, page 9, lines 10-15). The voting results are tabulated and displayed during the live broadcast event so that the voters can see the results of the poll to which they responded (specification, page 9, lines 31-33).

The Applicants, therefore, submit that obviousness cannot be established since the combination of Bayer et al., Reference A, and Reference B, fails to teach, disclose, suggest or provide any motivation for the Applicants' claimed features of: (a) presenting a survey question and a plurality of responses to voters viewing a live broadcast event; (b) directing the voters to cast votes over the Internet at a web site of a sponsor of the live broadcast event; and, (c) presenting the final voting results during the live broadcast event. In addition to explicitly lacking these features, the combination of Bayer et al., Reference A, and Reference B also fails to implicitly disclose, suggest, or provide motivation for these features. Further, the combination of Bayer et al., Reference A, and Reference B fails to appreciate advantages of these claimed features.

Therefore, as set forth in *In re Fine* and MPEP § 2142, the combination of Bayer et al., Reference A, and Reference B does not render the Applicants' claimed invention obvious because the references are missing several material feature of the Applicants' claimed invention. Consequently, because a prima facie case of obviousness cannot be established due to the lack of "some teaching, suggestion, or incentive supporting the combination", the rejection must be withdrawn. ACS Hospital Systems, Inc. v.

Montefiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984); MPEP 2143.01.

Accordingly, the Applicants respectfully submit that independent claims 1, 14, 22 and 26 are patentable under 35 U.S.C. § 103(a) over Bayer et al. in view of Oracle 8i (References A and B) based on the amendments to claims 1, 14, 22, and 26 and the legal and technical arguments set forth above. Moreover, claims 2-7 and 9-13 depend from amended independent claim 1, claims 15-21 depend from amended independent claim 14, claims 23-25 depend from amended independent claim 22, and claims 27 and 29 depend from amended independent claim 26 and are also nonobvious over Bayer et al. in view Oracle 8i (MPEP § 2143.03). The Applicants, therefore, respectfully request reexamination, reconsideration and withdrawal of the rejection of claims 1-7, 9, 11-15, and 9-32.

Conclusion

Because the Applicants' claimed invention includes features neither taught, disclosed nor suggested by the art cited in the Office Action, the Applicants respectfully submit that the rejections of claims 1-7, 9, 11-15, and 18-32 has been overcome.

The Applicants, therefore, submit that claims 1-7, 9, 11-15, and 18-32 of the subject application are in condition for immediate allowance. The Examiner, therefore, is respectfully requested to withdraw the outstanding rejections of the claims and to pass all of the claims of this application to issue.

In an effort to expedite and further the prosecution of the subject application, the Applicants kindly invite the Examiner to telephone the Applicants' attorney at (805) 278-8855 if the Examiner has any comments, questions or concerns, wishes to discuss any aspect of the prosecution of this application, or desires any degree of clarification of this response.

Respectfully submitted,

Dated: June 21, 2006

Craig S. Fischer
Registration No. 42,535
Attorney for Applicants

LYON & HARR, L.L.P.
300 East Esplanade Drive, Suite 800
Oxnard, CA 93030-1274
Tel: (805) 278-8855
Fax: (805) 278-8064